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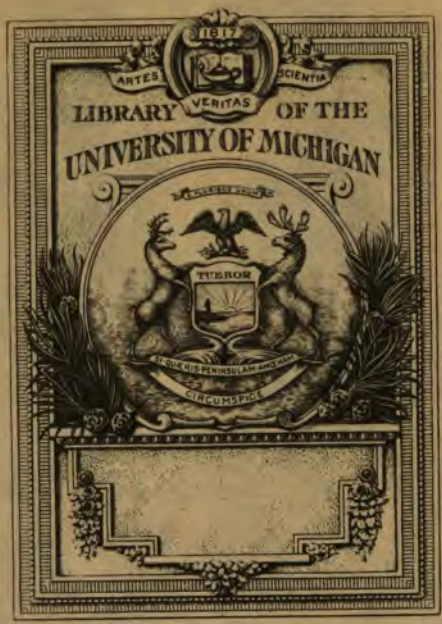
TEXAS LEGISLATURE ---ACTION IN REFERENCE TO THE CHARGE OF DEFALCATION AGAINST COMMODORE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ACTION OF THE LEGISLATURE

OF THE

STATE OF TEXAS,

IN REFERENCE TO THE CHARGE OF DEFALCATION AGAINST

COMMODORE E. W. MOORE,

AND THE CONSTRUCTION PUT UPON THE

"ANNEXATION RESOLUTIONS,"

BY THE

GOVERNMENT OF THE UNITED STATES.

WASHINGTON:
T. BARNARD, PRINTER.
1849.

JOINT RESOLUTION,

REQUIRING THE COMPTROLLER OF THE STATE OF TEXAS TO SETTLE CERTAIN ACCOUNTS.

SECTION 1. *Be it resolved by the Legislature of the State of Texas*, That the Comptroller be and he is hereby required to settle the accounts of E. W. Moore, Post Captain, Commanding the late Navy of Texas, for disbursements of money received from the Government of Yucatan, and for supplies of provisions and stores furnished the Navy, while in active service, in command of the maritime forces of the Republic, as well as all the accounts for monies received by him from the Government of Texas and other sources, and report his action to the next Legislature of the State for their final ratification.

SECTION 2. *Be it further resolved*, That this joint resolution take effect from and after its passage.

Approved 13th May, A. D., 1846.

COMPTROLLER'S OFFICE,
Austin, December 17th, 1847.

SIR: In obedience to the requirements of a Joint Resolution approved May 13th, 1846, I herewith transmit to the House of Representatives certain accounts and vouchers filed by E. W. Moore, Post Captain in the late Navy of Texas, showing the disposition made by him of certain funds placed in his hands for disbursement while in command of the "Maritime Forces of the Republic."

The accompanying abstract shows fully the character and description of each item of disbursement.

As the accounts and vouchers of E. W. Moore, are intimately connected and important as reference, in settlement of other Naval

accounts, I would respectfully suggest that after being acted upon by the Legislature they be filed with the archives of the Auditor's Office, where a number of this character of disbursements remain unsettled.

Very respectfully, your obedient servant,
JAMES B. SHAW,
Comptroller.

To the Hon.
JAMES W. HENDERSON,
Speaker of the House of Representatives.

Committee Room, Dec. 29th, 1847.

To the Hon.
The Speaker of the House of Representatives.

The Select Committee to whom was referred the "Report of the Comptroller of Public Accounts, with the accompanying documents, exhibiting his action under a Joint Resolution of the last Legislature" by which he was required "to settle the accounts of E. W. Moore, Post Captain Commanding the late Navy of Texas," have given to the subject their most mature consideration, and now beg leave to report to the House the result of their deliberations.

The account current made out by the Auditor of the late Republic of Texas on the 27th of April, 1844, and which is contained among the papers submitted to us, shows that Commodore Moore is charged at that time by the Auditor with the sum of seventy-two thousand, seven hundred and twenty-six dollars and seventy-four cents (72,726,74,) of which the sum of eighteen thousand eight hundred and twelve dollars and seventy-four cents (18,812,74) is charged in Exchequer Bills, and the balance in par funds. He is credited by twenty-one thousand eight hundred and fifty-one dollars and thirty-eight cents, leaving a balance against him of fifty thousand eight hundred and seventy-five dollars and thirty-six cents ($50,875,36) which will appear by reference to document A, accompanying this report.

The Comptroller in stating the accounts of Commodore Moore has arranged his claims against the Government into five classes. The first class, amounting to thirty-five thousand one hundred and thirty-five dollars and sixty-five cents, includes various kinds of cash disbursements for the use of the Navy.

The second class amounting to eight thousand one hundred and thirty-eight dollars and fifty-cents, embraces cash disbursements made in the enlistment of men, and bounty paid them upon entering the service.

The third class amounting to two thousand one hundred and

six dollars and seventy-four cents, embraces expenditures for the use of the Navy which were liquidated at the time they were incurred, by the individual obligations of Com. Moore with the hypothecation of Exchequer Bills at fifty cents on the dollar.

The fourth class is composed of items of disbursements for the use of the Navy, of which seven thousand two hundred and nine dollars and thirty-three cents, were liquidated by the individual obligations of Commodore Moore, and one thousand one hundred and eighty-three dollars and thirty cents were paid in cash.

The fifth class amounts to four thousand two hundred and twenty-five dollars and twenty cents, and includes expenses incurred for the use of the Navy which were wholly liquidated by the individual obligations of Commodore Moore.

An abstract of the foregoing is among the papers submitted, and is made a part of this report, as document X.

The Comptroller endorses all the vouchers for claims of the first class as "equitable and just," except the two last, numbered 143, for five hundred dollars; and 144 for three hundred and fifty-five dollars, which he submits "as informal vouchers to be acted upon by the legislature." Your Committee concur in the opinion expressed by the Comptroller, that the vouchers of this class are equitable and just, and they perceive no difference between the character of the last two vouchers and that of the preceding ones, and believe that there can be no good reason why they should not be allowed.

The disbursements comprised in the second class are not endorsed by the Comptroller, for the reason "that they are not of the kind authorized by the regulations of the service, though rendered necessary by the emergency of the times under which they were incurred." A bare reference to the nature of these disbursements will suffice to explain the necessity which prompted the expenditure. The Navy was comparatively without men and ordered upon an expedition against the enemy; the regulations of the naval service of the United States (which we view as a fair criterion in the absence of any positive law of our own,) allows bounty to seamen who enlist, and authorizes the employment of persons for the purpose of procuring recruits. Of this character are all the disbursements of the second class. It is to be recollected that these disbursements were made in the United States, then a foreign country, and was a violation of the Neutrality Laws of that Government; all parties engaged in the transaction rendered themselves amenable to highly penal laws. Under these circumstances it is not unreasonable to suppose that the cost of enlisting men would have been higher than in ordinary cases. This however we do not find to be the case; on the contrary the Committee are convinced that the cost incurred is less than that which usually attends the enlistment of men under the most favorable circumstances.

The third class is composed of five items of disbursements made in the purchase of provisions and other naval supplies. The first four items were liquidated by the individual obligations of Commodore Moore, with a pledge of double the amount in Exchequer Bills; the hypothecation was forfeited and the holders took the Exchequer Bills at fifty cents on the dollar. The last item was paid partly in par funds and partly in Exchequers. These were all cash expenditures and no obligation can exist to the disbursements included in this class.

In the fourth class are included disbursements made for the purchase of naval supplies. No doubt exists as to the correctness of the accounts; the only difficulty arises from the fact that a portion of the account was liquidated by the obligations of Commodore Moore, and the remainder paid in cash.

In the fifth class are included disbursements made for the purchase of Naval supplies, and repairs of the sloop of War Austin; in satisfaction of which Commodore Moore gave his individual obligations. No disbursements of money were made for any item included in this class.

The Auditor has charged in his Account Current, the Exchequer Bills against Commodore Moore as par funds; this the Committee do not conceive to be just. Satisfactory evidence is before us to show the rate at which these bills passed, from which it appears that for the amount of eighteen thousand eight hundred and twelve dollars, he received actually, six thousand three hundred and seventy-seven dollars seventy-eight cents—a fraction over thirty-three and a third cents on the dollar, and a higher rate than the market value at the time they were expended. We are therefore of opinion that the most equitable arrangement would be to require the actual proceeds only, of the depreciated currency, to be accounted for; which makes a deduction of twelve thousand four hundred and thirty-four dollars and twenty-two cents, to be placed to the credit of Commodore Moore.

In addition to the accounts stated upon the abstract of the Comptroller, the Committee believe that there are other credits justly due Commodore Moore.

The Comptroller has deducted from the credits allowed, the sum of seven hundred and seventy-seven dollars and twenty-two cents, the items of which will be seen by reference to exhibit, marked B, accompanying this report; these deductions are made on the ground that no strictly legal vouchers existed for this portion of the disbursements. The evidence before us shows sufficiently that this amount was actually expended for the use of the Navy, over and above what is allowed by the Comptroller. The greater part is for medicines and clothing proper for the service; and the want of strictly formal vouchers ought not in our opinion to preclude a recognition of the claim.

Another portion of the accounts of Commodore Moore are not allowed by the Comptroller, on the ground that the disbursements were made through third persons acting for him. We are convinced that all the expenditures of this character, amounting to fourteen hundred and eighty-eight dollars and fifty-seven and a half cents, were incurred for the use of the Navy, and paid for by Commodore Moore; and as they were actually received on board the different vessels, we can perceive no objection to allowing the account. An abstract of the various items included in this amount will be seen by reference to exhibit marked C.

Another account marked D, exhibits a statement of various cash disbursements for the use of the Navy, for which no formal vouchers are shown, but which have every appearance of being equitable and just. This account is for one thousand and fifty-nine dollars, fifty-two cents, and all the items contained in it are for Naval Supplies and Bounty to Seamen; except one item of fifty dollars for cash advanced Thos. S. Lubbock while engaged in the service of the Government. The Committee are of opinion that this item, although for money expended for the use of Government, ought not to be allowed, inasmuch as the disbursement was not strictly for the use of the Navy. The last two accounts amount to two thousand four hundred and ninety-eight dollars nine and a half cents, (2,498,09½.)

It is to be observed so far as relates to the greater part of the disbursements made by Commodore Moore, that the informality of the vouchers arises from the fact that he was, after the passage of the Act of Congress of 18th January, A. D., 1841, Naval Store Keeper and Navy Agent, as well as Commander of the entire fleet; had the two former offices been held by separate individuals, it would have been proper that requisitions should be made by the commanding officer for whatever supplies were needed for the service. But as he held all three of the offices this formality might well be dispensed with, for it would be unnecessary for an officer to make requisitions upon himself. As this is the only formality wanting in a large majority of the vouchers, it is a mere technical quibble to reject a voucher for a defect so trifling and unimportant.

Your Committee are satisfied that it was the intention of the Legislature, in passing the Joint Resolution under which the Comptroller acted, that the accounts of Commodore Moore should be settled upon an equitable basis, and they have been governed by this construction of the resolution. There is no voucher approved by us which has not upon the face of it, evidence of intrinsic correctness. Taking into view the circumstances of the times and the embarrassments which surrounded the Naval Service, it is to be wondered that even informal vouchers should have

been preserved. We discover by reference to the former settlement made by the Auditor, that many accounts are passed of the same character of those embraced in the present settlement, and upon vouchers equally informal.

So far as regards that class of accounts, amounting to fourteen thousand and eleven dollars eighty-six cents, liquidated by the individual notes of Commodore Moore, an abstract of which accompanies this report, marked E. The Committee are of opinion that they should not be estimated in settling the accounts of that officer with the Government; and they are of the same opinion in regard to the other class of accounts, for eleven hundred and ninety dollars and twenty cents, (the items of which will be seen by reference to exhibit F,) which are unliquidated by any obligation of Commodore Moore, but like the last mentioned were purchased by him for the use of the Navy, and upon a credit. The vouchers for both these classes are with the papers submitted to us, and belong to the archives of the Auditorial Department. These should be made the subject of a separate adjustment.

A recapitulation of the accounts of Commodore Moore, shows the following result:

Balance due by Commodore Moore as per account of Charles Mason, Auditor,		$50,875 36
By cash disbursements for the use of the Navy—1st class,	$35,135 65	
Cash disbursements for enlisting men, bounty, &c.,—2d class,	8,138 50	
Cash disbursements for the use of the Navy—3d class,	2,106 74	
Cash disbursements for the use of the Navy—4th class,	1,183 30	
Deductions made by Comptroller for want of strict vouchers see exhibit B,	777 22	
Disbursements not allowed by Comptroller for want of formal vouchers, see exhibits C & D,	2,498 09½	
Over-charge in Exchequer Bills,	12,434 22	
Balance,	$62,273 72½	$11,398 36½

It will be perceived that a balance is left in favor of Commodore Moore, of eleven thousand three hundred and ninety-eight dollars thirty-six and a half cents, which amount includes only the actual cash expenditures made in furnishing supplies for the Navy, paying for repairs, and procuring enlistments in the Naval Service. In addition to this, Commodore Moore holds the Purser's certificate for his pay from the time of entering the service up to the 25th of

July, 1843. The sum of three hundred and sixty dollars was drawn by him in June, 1840, and the balance in his favor up to the 25th July, 1843, is eleven thousand seven hundred and twenty-five dollars and fifty-four cents. It further appears from the statement of the Comptroller, that Commodore Moore has received no part of his pay under the Act of Congress passed 5th February, 1844, by which the sum of sixteen thousand dollars was appropriated, to be paid pro-rata, to the officers of the Navy; which will appear by reference to a certificate from the Comptroller accompanying this report, marked W.

At the time when the disbursements above stated were made, the Act of Congress passed July 23d, 1842, was in force. That Act "appropriated fifteen thousand dollars for the outfit of the Steam Ship Lavala; twenty-five thousand dollars for the outfit and provisioning of the Navy, then in the service of the Government; twenty-eight thousand two hundred and thirty-one dollars, for the pay due the officers, seamen and marines of the Navy on the first of July, 1842; and twenty-nine thousand four hundred and twenty-eight dollars and fifty cents, for six months pay of the officers, seamen and marines of the Navy, for six months from and after the 1st of July, 1842; which amount by the Act, was required to be paid out of the first money in the Treasury." No part of this was drawn, except seven thousand four hundred and eighty-seven dollars and seventy-eight cents, by the Secretary of War and Marine, in December, 1843, from the appropriation for repairing the Lavala.

Commodore Moore in view of these appropriations, and the assurance held out by the action of Congress that the Navy would be kept in active service, incurred the expenses necessary to sustain and support that arm of the National defence, and fit it for active operations against the enemy. It is believed that the sums expended for these purposes were reasonable, and that the Navy was fitted for its intended expedition upon the most reasonable terms.

In order to facilitate the outfit of the Navy and enable it to render the service which the country anxiously looked for, Commodore Moore as the Commanding Officer, pledged his own credit after expending the means in his hands belonging to the Government and drawing largely upon his own private resources. Taking into view the appropriation above alluded to, and the general expectation of the country, which confidently anticipated a glorious result to the contemplated expedition; it could not be deemed unwise or improper that the officer upon whom rested the whole weight of responsibility, should exceed the actual amount of government funds in his hands, when the means used were directed to the achievement of the great object which every patriot

desired, the chastisement of an insolent foe. Mexico had already declared our ports in a state of blockade and menaced our coast with an invasion, which we were incapable of repelling unless by keeping the Navy in service.

The honor of the country was vindicated by our small but gallant fleet, when an opportunity offered of meeting the enemy.

Far from censuring as extravagant, the conduct of the Commander in supplying the Navy with all the necessary means of bringing to an honorable conclusion the contest he was about engaging in; your committee are more disposed to applaud his efforts, and admire the zeal manifested by that officer directed as it was to the promotion of his country's glory. It is the pride of a generous country to bestow merited praise upon the patriotic exertions of its citizens.

Your committee having placed in possession of the House, so far as they are capable, the facts connected with the subject referred to them, and made such suggestions as they conceived to be proper; ask time to prepare and offer resolutions appropriate to the various matters which they have had under consideration.

All of which they respectfully submit.

M. M. POTTER,
EMERY RAINS,
M. T. RODGERS,
JAMES WILLIE,
JOHN D. ANDERSON,
} *Committee.*

COMMITTEE ROOM, Jan. 4th, 1848.

TO THE HON.

The Speaker of the House of Representatives.

The majority of the Special Committee to whom was referred the report of the Comptroller relative to the claims of E. W. Moore, Post Captain Commanding the late Navy of Texas, having further deliberated upon the matters referred to them, and upon which they reported on a former day, beg leave again to report and offer the accompanying resolutions, which they recommend to the favorable consideration of the House of Representatives. The Resolutions only place the accounts upon the same footing as if they had been audited by the proper accounting officers of the late Republic of Texas.

M. M. POTTER,
EMMERY RAINS,
M. T. RODGERS,
JAMES WILLIE.

NOTE.—JOHN D. ANDERSON, the other member of the Committee had left the seat of government on sick leave.

JOINT RESOLUTION,

To provide for the settlement of the claims of E. W. Moore, Post Captain Commanding the late Navy of Texas, on account of cash advances made for the use of said Navy.

Whereas, it appears upon a settlement of the claims of E. W. Moore, Post Captain Commanding the late Texas Navy, that there is a balance due said E. W. Moore, of eleven thousand three hundred and ninety-eight dollars thirty-six and a half cents, from the late Republic of Texas on account of cash advances made by him for the use of the Navy thereof,

SECTION 1*st*. *Be it Resolved by the Legislature of the State of Texas*, That the said accounts and vouchers of said E. W. Moore together with the report of the Comptroller thereon, be deposited in the Comptroller's Office; and that the claim of said Moore for said sum of eleven thousand three hundred and ninety-eight dollars thirty six and a half cents, shall be as valid and shall have the same force and effect as if the same had been audited and settled by the proper accounting officer of the late Republic of Texas.

SECTION 2*d*. *Be it further Resolved*, That this Joint Resolution take effect from and after its passage.

JOINT RESOLUTION,

For the relief of persons who furnished supplies on the credit of Post Captain E. W. Moore for the use of the Navy of the late Republic of Texas, while commanded by said Post Captain E. W. Moore.

Whereas, it appears that various supplies were furnished by different individuals for the use of the Navy of the late Republic of Texas on the credit of Post Captain E. W. Moore, amounting to fifteen thousand two hundred and two dollars and six cents, the accounts and vouchers for which are on file among the archives of the Auditorial Department, therefore,

SECTION 1*st*. *Be it resolved by the Legislature of the State of Texas*, That said accounts and vouchers together with the report of the Comptroller in relation to the same, shall be deposited in the office of the Comptroller of public accounts, and when so deposited shall be as valid and have the same force and effect in favor of each claimant who furnished said supplies, as if the same had been audited and settled by the proper accounting officers of the late Republic of Texas; provided that said amount shall not exceed the sum of fifteen thousand two hundred and two dollars and six cents as above specified; and further provided, that said claimants shall release said E. W. Moore from any liability on account of the claims above referred to.

SECTION 2*d*. *Be it further resolved*; That this joint resolution, take effect from and after its passage.

REPORT OF SENATE COMMITTEE.

COMMITTEE ROOM, January 14th, 1848.

HON. J. A. GRIER,

President of the Senate.

The select committee to whom was referred the Joint Resolution for the settlement of the accounts of E. W. Moore, Post Captain Commanding the late Navy of Texas; (and a Joint Resolution for the relief of persons who furnished supplies for the late Navy of Texas;) have had the same under consideration and beg leave to report that in conformity with a Joint Resolution of the last Legislature, the Comptroller was "required to settle the accounts of E. W. Moore, Post Captain, and report his action to this Legislature for their final ratification."

The accounts and vouchers have been examined and methodically arranged by the Comptroller, and have been subjected to a rigid scrutiny by a Committee of the House of Representatives, whose report accompanies the resolutions. The same accounts and vouchers have likewise been examined by your Committee, and they deem it proper to state that the resolutions propose a simple acknowledgment of the claims presented, requiring no appropriation of land or money, and if adopted place the claims among the outstanding liabilities of Texas.

As an act of justice to those who have heretofore gallantly sustained the honor of the late Republic through her Naval arm, your Committee recommend the resolutions to the favorable consideration of the Senate.

All of which is respectfully submitted.

R. M. WILLIAMSON, (*Chairman.*)
PHILIP M. CUNEY,
A. M. PHILLIPS,
JESSE GRIMES,
HENRY J. JEWETT.

NOTE.—Both Joint Resolutions passed and were approved by the Governor, January 24th, 1848.

GOVERNOR'S MESSAGE.

EXECUTIVE OFFICE,

Austin, January 18th, 1848.

Gentlemen of the House of Representatives:

You are aware that by the terms of the joint Resolution of Annexation, the Republic of Texas was required to transfer to the general government her Navy, and all other means of public defence. You are also aware that a question has arisen whether the officers belonging to the Navy were not a constituent part of the same, and if so, whether they should not of right, be included

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